

ABC+ Code for New & Newly Converted Property Sales

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ABC+ Code for New & Newly Converted Property Sales

Introduction

In 2016 The All Party Parliamentary Group for Excellence in the build environment considered evidence from a range of interested parties regarding the quality of construction of new homes. The resulting report More Homes – Fewer Complaints indicated that consumers wanted to see an improved quality of build, homes that were fit for purpose and an easy to understand warranty. Furthermore, if problems occurred they wanted an affordable mechanism to resolve the matter.

The report suggests that there is a clear quality gap between customer demand and industry delivery. Housebuilders it states need to make a concerted effort to create a more customer focused culture.

It concluded that there was a perceived flaw in the system of checking quality and the workmanship. Consumers thought or were told that the warranty offered was a hallmark of quality, whereas in reality the warranty covered far less than assumed and neither warranties or building control functions provided any comfort that their intended homes' finishing and fittings would be defect free.

Consumers also did not appreciate that in the first 2 years it was the builders' responsibility to sort out any defects, and that for the remaining life of the warranty only structural matters were covered.

The Code Sponsor has carefully considered the content of the report and where possible established code rules that reflect the report recommendations. The ABC+ Code for New and Newly Converted Property Sales is intended to inspire consumer confidence in the new build sector and raise building standards. It should ensure consumers receive enhanced customer service and consumer protection.

The Code Subscriber commits to comply with the provisions of the Code and agrees to support the Code Sponsor to raise building standards to the highest level achievable and in doing so put consumers first.

To achieve this the Code Subscriber should actively engage with specialised professionals such as Architects, Building Control Inspectors, Structural Engineers, Surveyors and Waterproofing Specialists to ensure the quality of the build and consequently the minimising of complaints and remedial action.

It is mandatory requirement that clients requesting ABC+ Warranty will become a Code Subscriber and agree to conform with its rules.

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Glossary

Adjudication: A formal decision made by an independent person based on an objective and impartial assessment of the facts of the case

Architect: A professional registered person who is qualified in the design of newly built and newly converted homes.

Building Regulations: The minimum standards for the design and construction of the property which include both the quality standards and health and safety requirements.

Building Control Inspector: A professional recognised person qualified in all subjects of building regulations.

Code: The ABC+ Code for New and Newly Converted Property Sales.

Code Subscriber: A builder or developer who is contractually bound by Architects Certificate subscribe to and comply with the Code.

Complaint: An issue that is raised by the homebuyer with the Code Member regarding the sale of a new or converted property

Completion: The point at which the ownership of the property is transferred from the Code Subscriber to the purchaser.

Conciliation: The process of reaching a mutually agreed settlement.

Construction product: Any product or kit which is incorporated in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works.

Construction works: Any building, civil engineering or engineering work.

Contract / Contract of Sale: The legally binding document used for the sale of a Home.

Contract Deposit: A non-refundable deposit which is paid by the purchaser to the Code subscriber to reserve the property.

Contract Exchange: The point in the conveyancing process at which the contract becomes legally binding on both parties.

Dispute: A complaint that has not been accepted or has not been dealt with to the satisfaction of the Consumer, or within the timescale by a Code Member.

Dispute Resolution Scheme: The procedures for dealing with disputes between the purchaser.

FCA: The Financial Conduct Authority which regulates the financial services industry in the UK.

Leasehold: Where, the purchaser has the ownership and the right to use the property for a set period of time. Usually applies to flats rather than houses.

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Management Services: The maintenance, supply and service obligations and charges that the purchaser is legally obliged to meet, once they own the property.

Part Exchange Schemes: Where the purchasers existing home is traded as part payment for a new build property bought from the Code Subscriber.

Property: A new build or newly converted property registered by a Code Subscriber with Architects Certificate to obtain an ABC+ Structural Warranty.

Purchaser: A person who reserves or buys a newly built, newly converted or off plan property.

Reservation Agreement: The written legal agreement between a purchaser and the Code Subscriber containing the statement of intent to buy and sell a property.

Reservation Fee: A fee that reserves the Home following the signing of a Reservation Agreement.

Snagging: Minor and/or cosmetic issues with the building work relating to the property which remain outstanding at Completion.

Specialised Professionals: Individuals that specialise in separate areas of construction such as a Structural Engineer; Architect; Building Control Inspector; Waterproofing specialists.

Specification: The general description of the main materials used to build the Home including wall, roof and floor construction, bricks and roof tiles, windows, internal and external doors, bathroom and kitchen tiles, equipment, furnishings, taps, central and other heating systems, paint, carpets.

Structural Defect: An inherent fault in the design or construction of the load bearing portions or weatherproofing of the property.

Structural Engineer: A professional person who is a qualified specialist in design, construction, repair, conversion and conservation of dwellings. They are concerned with all aspects of a structure and its stability

Vulnerable consumer: A purchaser who by virtue of their circumstances is more susceptible to certain trading practices.

Water Ingress: The unwanted entrance of water into a property which without intervention could cause loss, destruction or damage.

Water Proofing Specialist: A professional person who is qualified in all areas of water proofing for newly built and newly converted property. They are able to produce a structural water proofing design to suit the structure of the property.

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Purpose of the Code

The purpose of the Code is to ensure that purchasers of new and newly converted property

- Are treated fairly and with respect at all stages in the process;
- Know who they are contracting with and can be confident that the business is legitimate;
- Can be confident in the quality of construction of their prospective home;
- Receive exemplary customer service;
- Are advised on how to look after their new property and address any problems that may arise following their occupation of their home;
- Are given clear and honest information at the right time allowing them to make an informed choice;
- Understand the procedure for dealing with customer enquiries and any complaint they may have; and
- Know that as potentially vulnerable consumers they will be given additional support and sufficient information to suit their individual needs.

Scope of the Code

The Code applies to any purchase of a new or newly converted property that is covered by an ABC+ Structural Warranty issued after 1 February 2018.

The Code also applies to the purchase of a new property proposed to be sold under a shared ownership scheme that is covered by an ABC+ Structural Warranty issued after 1 February 2018.

The Code does not apply to those properties

- Bought for investment purposes
- That are self-built and the builder becomes the occupier
- Developed by social landlords for rental purposes
- Solely covered by an Architects Professional Consultants Certificate
- Taken in part exchange and re-sold
- Being purchased by an investor that is allocated to another person before completion

The Code does not cover disputes that:

- Are not against a Subscriber to the Code;
- Are covered by the ABC+ Warranty
- Are from a business;
- Is, or has been, dealt with by the Courts or another Dispute Resolution Service;

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- Exceeds the Dispute Resolution Scheme limit of 25% of the purchase price of the property to a maximum of £50000 aggregated for all claims
- Are personal injury claims
- Are conveyancing or land registration claims
- Relate to loss of value or blight

The provisions of the Code will apply for the statutory period (6 years) within which a consumer may make a civil claim for a breach of contract. However, the level of any compensation awarded will be mitigated by the extent of the time that has lapsed between the date of the completion of the contract and the date that any claim is made.

The Dispute Resolution Service will not be able to administer a claim against a Code Subscriber if they have entered Administration, Liquidation or ceased to trade. Any claim in the circumstances should be raised under the provisions of the ABC+ Warranty.

Water Ingress

The Code Subscriber must follow the Code Sponsors Water Ingress Procedure and in those circumstances the purchaser has the protection of the ABC+ Policy. If the Code Subscriber fails to follow the Water Ingress procedure the ABC+ Insurance Certificate will not be issued.

Second or subsequent purchasers

The ABC+ Warranty covers the property for 10 years and continues to apply however many owners the property has in that period. The provisions of the Code will apply for the statutory period within which a consumer may make a civil claim for a breach of contract (6 years), but this only applies whilst the first owner occupies the property.

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Commitment to the Code

Any prospective Code Subscriber must be a legitimate business and be able to demonstrate financial stability.

The Code Subscriber must demonstrate a clear commitment to:

- Meeting the code criteria and maintaining compliance, and
- That they have the necessary infrastructure to conform to the Code.

Access to the Code

Customer awareness is key to success of any Code of Practice and the Code Subscriber must make the document available to all consumers free of charge. They must provide it in a written or digital format to enable the consumer to take the Code away or access it remotely.

They must:

- Display the Code prominently in all areas to which potential buyers have access (sales office, show house(s) third party agents premises; and
- Make the Code available in a variety of formats (large print, other languages braille etc;
- Fulfil a request for an unavailable format within 5 working days of the request
- Include details as to how to obtain a copy of the code on all documentation including the Reservation Agreement

The Code Subscriber must ensure that all potential purchasers understand how the Code helps them but also their responsibilities.

Staff employed in the sales process must understand their obligations and if necessary recommend to the purchaser that they engage a representative.

Third Party Representation

Code Subscriber staff and any third-party agent must respect and if necessary actively encourage the participation of a third-party representatives.

They must afford the representatives the same courtesy and time as if they were dealing with the purchaser themselves but ensure that the purchaser is not excluded from the process.

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Consumer Guide

The purchaser must be given a guide to the Code and the Dispute Resolution Scheme. This guide must confirm the scope of the Code and highlight the exclusions and applicable deadlines.

A free or local rate telephone number, email contact and postal address must be provided to the purchaser to use should they wish to speak to the seller about the property.

These contact details must be prominently displayed on any premises that consumers have access to and included on or with any documentation given to the prospective purchaser.

External Support

The Code Subscriber should provide details of sources of information to support the purchaser:

Citizens Advice Bureau provide help and support to consumers who are in dispute with a trader.

www.adviceguide.org

England & Wales 03454 040506

Northern Ireland 028 9023 6522

Scotland 0808 800 9060

The Homeowners Alliance provide unbiased and practical advice for home buyers

www.hoa.org.uk

Helpline 033 0088 2050

Access links to disabled peoples' support networks at www.ableize.com

Access to comprehensive details of organisations offering advice and support on specific mental health issues at www.gov.uk

Obtain help and advice about finding a RICS qualified Surveyor at www.rics.org

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Customer Service

The Code Subscriber must promote good customer service and professionalism amongst staff and encourage them to meet all service requests with courtesy and efficiency.

This Code recognizes that all consumers can be vulnerable at some stage in their life and that the purchase of property is the most significant transaction that they may ever make.

The Code requires that Code Subscribers must consider all their purchasers as potentially vulnerable and must adopt suitable systems and procedures to enable them to respond to the stated, identified or perceived needs of the individual.

Code Subscribers must ensure that all purchasers

- Understand how the Code helps them,
- Are allowed to make an informed decision
- Are given clear guidance regarding purchasing a new property
- Know what their responsibilities are and the obligations of the seller
- Are dealt with as an individual and are given the right level of support

For example:

- If language difficulties are identified, providing the material in the first language of the prospective purchaser, allowing time for them to understand the information and suggesting that they obtain the help of a translator and/or interpreter, or
- If social interaction issues are identified the purchaser may need to be supported through the process by a specific member of staff.

Contact Information

The Code Subscriber must tell the prospective purchaser

- who to contact during the sale process,
- How their questions will be addressed, and that
- any query will be responded to within 5 working days

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Staff training

All staff who deal directly with consumers must be given awareness training that includes an explanation of their responsibilities and the implications for the Code Subscriber if there is any failure to comply with the Code.

All staff and third-party agents involved in the sale of property and/or After Sales Service must have been given appropriate 'Customer Service' training. This must include training on identifying the differing needs of the customer dependent on their stated or perceived vulnerability and how they can support the consumer throughout the process.

It is an essential requirement of the code that a customer service trained member of the sales and/or aftersales team should be available at all times.

All Sales and After Sales Staff should understand their limitations and be confident to escalate any issue to a senior member of their team if necessary.

Code Subscribers must monitor, review, and where appropriate refresh staff training on an annual basis.

The Code Subscriber must

- listen to feedback from Consumers and the Code Sponsor and where appropriate use it as a tool to improve service and raise standards
- provide their consumers the ability to leave feedback about the property, service received, and general experience of the process in different ways
- provide details of the methods in which feedback can be given on any documentation given to the consumer

Consumer Surveys

The Code Subscriber must also

- Carry out an independent survey of all consumers that have purchased a property from them,
- Include questions designed to establish consumer awareness and understanding of the Code, and
- Provide the results of those surveys and details of their response to the Code Sponsor to demonstrate compliance with the Code.

The Code Subscriber should use the information from the surveys and feedback to identify and implement service improvements.

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Marketing and Sales

All sales and marketing material must use plain English. The content of the literature must be clear, fair and truthful.

Depending on the media used, sales and advertising material should also comply with the relevant code of advertising and the law, e.g.

- UK Codes on broadcast advertising, sales promotion and direct marketing;
- The Television Advertising Standards Code;
- The Radio Advertising Standards Code;
- The PhonePayPlus Code regarding premium rate charges
- any other relevant Codes or guidance.

All sales and marketing material must contain a statement that the Code Subscriber complies with the Code.

Code Subscribers must act legally at all times. The Code Subscriber should check that the material complies with The Consumer Protection from Unfair Trading Regulations 2008 and The Business Protection from Misleading Marketing Regulations 2008 before marketing the property.

Unfair Practices

The Code Subscriber must not use high pressure selling techniques during the sales process. They must also ensure that all staff and any third-party agents are aware of their responsibilities under this part of the Code.

Examples of these unfair practices include

- Offering a financial incentive to encourage an early decision to make a reservation
- Indicating that there is interest from others when there is not
- Indicating that the price at which the property is offered is time limited

The Code Subscriber must not substitute any construction product except where the product to be used is of a similar or improved specification.

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Pre-Contract Information

Informing the purchasers decision

The Code Subscriber must give the prospective purchaser relevant information before they make any decision so that they can make an informed choice.

The minimum information that should be included is

- A written reservation Agreement
- A simple explanation of the Structural Warranty cover and contact details of the Code Sponsor
- The product specification for all major components used in the construction of the property
- An estimate of any Management services costs that the purchaser will be committing to pay
- A full list of the contents of the property that are to be included in the price
- Any plans for additional developments in the area
- Details of any leasehold arrangements (if applicable)

Purchase off plan

If the purchaser is buying off plan then they should receive (as a minimum) written details of:

- The size, specification, layout, position, appearance, price, utilities, energy performance etc of the property being reserved
- Any other build phases, facilities for, and timescale for completion

Structural Warranty Cover

The Code Subscriber must give the purchaser accurate and reliable information about the ABC+ Warranty to be provided for the property.

They must also provide any additional insurance documents that cover the property or fittings on completion of the transfer of ownership.

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Health & Safety

All visitors to the construction site must be made aware about the appropriate health and safety precautions they should take to ensure their safety. If needed, appropriate safety equipment must be provided.

The Code Subscriber must ensure that visitors understand their personal responsibility to follow health and safety procedures and signs a document confirming this.

The Code Subscriber should ensure that all visitors to the site:

- Are guided by appropriate signage
- Can move around the site safely; and
- Are accompanied by an appropriate person.

All visitors must be given health and safety guidance in compliance with the relevant Construction Regulations.

Reserving the property

The purchaser must be given a Reservation Agreement written in plain English that clearly sets out the following terms that include but is not limited to:

- The amount the purchaser must pay to reserve the property;
- The circumstances when that fee is refundable or non-refundable;
- What administration fees or similar may be deducted if the purchaser withdraws before completion;
- The circumstances where those deductions may apply and the likely penalty;
- Details of the property being sold including the type, plot number, map, development name, and parking arrangements, where appropriate;
- The purchase price and how long that price remains valid
- How and when the Agreement will end:
- The date by which Contract Exchange is expected to take place
- Written details of the pre-purchase information provided
- Details of any part exchange, if applicable
- An explanation as to how the purchaser can include any verbal statement made prior to the reservation in the contract;
- Details of any Management Services costs that the purchaser must pay;
- The process to follow if the Code Subscriber becomes insolvent;
- The process to follow to request changes to the property specification and the limitation of those changes

The Code Subscriber must inform the purchaser that the Reservation Agreement is not a Contract of Sale and that the purchaser understands the difference between the two documents.

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Part Exchange Agreements

If Part Exchange is offered to the prospective purchaser the Code Subscriber must ensure that the terms of the scheme are fair and transparent and must not be used to induce a sale.

The terms of the Part Exchange Scheme must be written in plain English and when a Part Exchange is requested by the purchaser the Code Subscriber must clearly state:

- The full terms and conditions that apply including any applicable Leasehold requirements;
- All of the fair market valuations that have been obtained and where they were obtained;
- The valuation that is acceptable to the Code Subscriber and why;
- Any deductions from the valuation;
- The date by which the prospective purchaser needs to accept the offer;
- The consequences of not accepting the offer by the stated date; and
- The anticipated date by which the Part Exchange and purchase of the property will be completed.

The Code Subscriber must give all purchasers, particularly vulnerable adequate time to consider and understand the information provided about the new property, Leasehold and any Part Exchange Scheme offered.

The Code Subscriber must give the purchaser a copy of the Reservation Agreement signed by both parties.

While the Reservation Agreement is valid the Code Subscriber must not enter into another agreement anyone else for the same property.

Unless the Reservation Fee has been paid by credit card, the Code Subscriber must hold the Contract Deposit in a designated client account.

The purchaser may cancel the Reservation Agreement during the agreed reservation period. If that right is exercised the Reservation Fee must be refunded within 14 calendar days of receipt of the notice of cancellation.

The Reservation Fee must be refunded in full if the purchaser wishes to cancel the reservation for any reason within seven calendar days of signing the Reservation Agreement.

The purchaser must be told in advance by the Code Subscriber of any reasonable deductions that may be made from the Reservation Fee if the purchaser cancels at a later stage.

The reservation period may be extended by mutual agreement between the purchaser and the Code Subscriber. If the deadline date is not extended and the Contract of Sale has not been exchanged, the Reservation Agreement automatically expires.

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If the reservation agreement expires the Reservation Fee must be refunded within 14 calendar days (less any reasonable deduction the purchaser was told about at the time the Reservation Agreement was made).

To avoid disputes over spoken statements immediately before Contract Exchange the Code Subscriber should ensure that the purchaser, through their legal representative, states in writing what spoken statements they are relying on when entering into the Contract of Sale.

Appointment of Professional Advisors

The Code Subscriber must advise purchasers to appoint an independent professional legal adviser (a solicitor or conveyancer) to carry out the legal formalities of buying the property and to represent their interests before Contract Exchange.

If the purchaser requires independent advice on appointing a professional legal adviser the Code Subscriber should be referred to The Home Owners Alliance website.

The Code subscriber should also advise purchasers to take independent financial advice if they need to obtain a mortgage to assist them in buying the property.

If the purchaser asks the Code Subscriber to recommend an advisor they should, where possible, be given a list to select from.

If the Code Subscriber has relationship with or receives a commission for any recommendation this should be made clear to the purchaser. The Code Subscriber should also disclose the amount of the commission.

The Code Subscriber must provide the purchaser with the names and contact numbers of those people who will deal with any questions or problems the purchaser may have prior to the transfer of ownership of the property and who will deal with any complaint raised by them under the Code.

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Contract Exchange

Contract of Sale

The Code Subscriber's solicitor will send the Contract and all relevant documents and approvals to the purchaser's independent advisor as soon as reasonably possible after the date of the Reservation Agreement.

Contract of Sale terms and conditions must;

- Use the Law Society's Standard Conditions of Sale as a template
- Be clear, fair and written in plain English;
- Comply with the Consumer Rights Act 2015;
- Clearly set out the process and timing for advising the purchaser of the date at which ownership of the property will transfer from the Code Subscriber to the purchaser on Completion; and
- Indicates the circumstances when the purchaser can terminate the Contract; and
- Indicates what will happen should there be a delay in construction and the property will not be ready for occupation by the purchaser by the date stated.

Completion & Handover

The purchaser must be given

- A realistic indication of the timescale for the construction of the property;
- The date of transfer of ownership (Completion),
- The date of Handover,
- The opportunity to inspect the property

The right to terminate the contract

The purchaser must be told about their right to terminate the Reservation Agreement or the Contract of Sale.

Circumstances when a right to terminate exists include:

- Where the property has been significantly altered such that it directly or materially affects the value;
- When there has been excessive or unreasonable misrepresentation of features or amenities; or
- Excessive or unreasonable delay in finishing the construction of the property and serving notice to compete.

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Deposit Protection and Insolvency

The Code Subscriber must explain how the Contract Deposits are protected and how any other pre-payments (such as reservation and administration fees) are administered.

The Code Subscriber must ensure that the prospective purchaser is made aware that the Reservation Fee and Contract Deposit is held in a deposit account in trust either by the conveyancing solicitor or the estate agent. Therefore, the Code Subscriber cannot access the funds until after completion of the contract.

The Code Subscriber must explain the terms under which any

- Reservation Fee or Contract Deposit is refundable,
- Administration fees or similar which may be deducted before a refund is made; and,
- Applicable costs or penalties in the event that the purchaser withdraws from the sales process at any time prior to exchange of contracts

The Code Subscriber must also provide a written explanation of the purchasers' position in the event that they become insolvent.

Information on completion

The purchaser must be told whether an ABC+ Structural Warranty covers the property and has been issued, and if not indicate why it has not been issued.

The Code Subscriber must provide an information pack to the property owner which should include the following:

- The ABC+ Structural Warranty where available or an explanation with reasons as to why they are not available;
- A precis of the type of claims covered by the ABC+ Structural Warranty;
- Confirmation that the property meets the requirements of the current building regulations;
- Details of the inspections carried out on the property by Building Control and Warranty Body Inspectors;
- Confirmation that there has been no substitution of any construction product without the knowledge of the purchaser;
- The Code Subscribers Complaints Procedure;
- A checklist of matters covered by the Code;
- A simple guide to Dispute Resolution under the Code, and
- How to complain to the Financial Ombudsman Service (FCA).

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Potential changes following the exchange of contracts

If a change occurs to the design, construction or materials relating to the property that will alter its value significantly, the Code Subscriber must discuss these changes with the purchaser and obtain their written agreement to any changes.

If the purchaser does not agree with those alterations they may cancel the Contract without loss of deposit or the withholding of any fees.

The purchaser must be told of any minor changes that do not significantly alter the size, appearance or value of the property. They should be advised to consult their professional legal adviser as to the effect of those changes under the Contract of Sale.

But, the Code Subscriber does not need the purchasers' agreement before implementing such changes.

Any changes requested by the purchaser that they agree to pay for that are not included in the Reservation Agreement or Contract of Sale must be agreed in writing by the parties.

This agreement must include;

- Cancellation and refund rights; and
- The likely impact on the date the construction of the property and its availability for occupation.

Handover

The Code Subscriber must provide every purchaser with a schedule detailing timing of key stages including when the property is ready for occupancy.

General guidelines for timings and Completion must form part of the Property Information Pack which should be regularly updated.

The Code Subscriber must ensure that all information on timings is accurate at the time it is provided.

Weather and shortage of materials are issues that arise that are outside the Code Subscribers' control and may result in delay to the construction of the property.

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Occupying the property

When the Code Subscriber tells the purchaser when the property is likely to be completed and available for occupation depends on the build stage at the time the information is provided.

The Code Subscriber should follow an established method, such as:

- If the property is at the 'foundations stage' - Purchaser told the calendar quarter that it is likely to be ready;
- If the roof is on and the property is weather proof - Purchaser told the month it is likely to be ready; and
- If decorated and main services are connected - Purchaser told the week it is likely to be ready.

The Code Subscriber must also inform the purchaser of any outstanding work on other areas of the development and an indication of the timescale for completion. At hand-over the Code Subscriber must provide the purchaser with:

- A copy of the Snagging report carried out by the Code Sponsors surveyor and confirmation that the items listed have been remedied;
- An explanation of how appliances operate;
- Full details of guarantees / warranties that accompany the Home such as;
- Tanking guarantees;
- Timber treatment guarantees;
- Ground remediation guarantees;
- Water Ingress warranty
- Including an explanation of how long each guarantee or warranty lasts and any obligation that the purchaser must fulfil to ensure they remain valid;
- Full details of the after sales service offered, including how long it lasts, contact names and numbers and what to do in an emergency; and
- Details of the Dispute Resolution Scheme.

The Code Subscriber must not

- Use high pressure techniques in the selling of additional insurance products, warranties or guarantees.
- Misrepresent the costs of such products, what is or is not covered or their benefits.

If the Code Subscriber receives any commission for recommending any of these products they must advise the purchaser and indicate the amount of commission received.

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After Sales Service

The Code Subscriber must provide the purchaser with a comprehensive and accessible after-sales service pack.

The pack must contain;

- Contact details of the after-sales service team
- The process for handling emergencies;
- All Guarantees and warranties that apply to the property; and
- The duration of the after-sales service.

The Code Subscriber should be contactable by a Free-phone number or a national or local rate telephone number.

The guarantees, warranties and instruction manuals for components (e.g. boilers) and / or white goods supplied with the property but permanently fixed to the property must be given to the purchaser on Completion.

If the Code Subscriber needs to visit or carry out works on the property after it is occupied, then the following steps should be taken:

- An appointment is made that is convenient with the purchaser;
- If applicable, the appointment should be made when the purchasers' representative is available;
- If the representative is not at the property at the time arranged then the Code Subscriber should rearrange the appointment with the purchaser; and
- The Code Subscriber must provide identification before entering the property.

During the visit to the property the person attending should:

- Act in a professional and respectful manner at all times;
- Be considerate of the contents of all the contents of the property, in particular laying protection for floor coverings; and
- If work is carried out, ensure all debris is cleared from the property and the area where work has been completed is clean and tidy.

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The new owner must be told about the health and safety precautions they should take when living on a development where building work continues and the measures which the Code Subscriber implements in order to protect them.

The Code Subscriber must include a health and safety file for the property compliant with the relevant Construction Regulations in the after-sales service pack.

Customer Contact, Complaints and Disputes

The Code Subscriber must appoint a sufficient number of contacts who will:

- Update the Code Sponsor of any changes regarding contact details including all business names, addresses, telephone and fax numbers and email addresses; and
- Be responsible for all matters relating to customer contacts, the internal complaints procedure and Dispute Resolution.

These contacts must have the authority to bind the Code Member during settlement negotiations with Consumers and with the dispute resolution service.

Code Subscribers responsibilities

Code Subscribers must adopt a written and/or online complaint procedure and ensure that it is followed.

The procedure must identify the principal contacts of the Code Subscriber who will oversee dealing with the dispute.

The Code Subscriber must

- ensure that all complaints are acknowledged within 7 calendar days and an attempt is made to resolve the issue within 30 calendar days.
- Provide a flowchart or similar document explaining how a complaint will be dealt with.
- Take responsibility for resolving the dispute in a timely and effective manner at all time

If the matter cannot be resolved and is referred to the Alternate Dispute Resolution Service the Code Subscriber must cooperate with the ADR Service provider.

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Dispute Resolution

If, after 30 days from the date of the Consumer's first written or online complaint to the Code Subscriber the purchaser may refer the matter to the Dispute Resolution Service.

On receipt of the dispute from the purchaser, the information is assessed to establish if the matter is suitable for dispute resolution. If it is, a Response Form will be issued to the Code Subscriber who has 14 days to formally respond.

The information from both parties will be assessed and where possible a resolution proposed.

If the Code Subscriber does not respond it is assumed that they will not be contesting the claim and a decision/award may be made without further communication.

Conciliation

If the Code Subscriber responds within 14 days the Dispute Resolution Service may try to settle dispute via conciliation. The aim is to reach a conclusion acceptable to all parties within 30 days of receiving the written response from the Code Subscriber.

During this period the Dispute Resolution Service may:

- Make a decision on the validity of the claim;
- Recommend settlement terms;
- Consider offers that were made prior to its involvement
- Try to help the parties to reach a mutually agreed settlement, or
- Ask for additional evidence to be supplied by either party
- Arrange for an independent inspection

The Dispute Resolution Service may make an early decision on what the outcome of the case should be and in doing so it may make an award.

ABC+ Code for New & Newly Converted Property Sales

Adjudication

Where an agreement or settlement cannot be reached, and in the opinion of the Dispute Resolution Service the weight of evidence remains in balance, formal adjudication may be considered.

Prior to making an adjudication the Dispute Resolution Service must arrange for a survey to be carried out on the consumers home by an independent expert. The Code Subscriber will bear the cost of the inspection. Following a review of written submissions from both parties, the Experts' report and Conciliation papers the Dispute Resolution Service will decide whether or not a consumer has

- A legitimate dispute and/or
- Suffered financial loss, if so
- How much financial loss has been incurred due to a breach the Code.

If Adjudication is required the aim is to make the decision within 60 days of receiving the written response from the Code Subscriber.

Awards: Acceptance, Refusal and Liability

The Code Subscriber must accept the adjudication which may comprise any of the following;

- Pay the Consumer the amount of any such award (within the terms of the Code) if accepted by them within a specified period;
- Comply with any performance award that may be advised i.e. carry out remedial work or additional work;
- The reimbursement of any fee paid by the purchaser

If the Consumer accepts the award, this will indicate that the dispute has been resolved in full.

If the Consumer refuses to accept the award any subsequent legal action is likely to take account of the award proposed through conciliation or adjudication decision.

The Dispute Resolution Service may also decide to refer the matter to the Disciplinary and Sanctions Panel.

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Disciplinary and Sanctions

Any contravention of the Code may be investigated by the Code Sponsor and proportionate action may be taken.

After auditing if the Code Subscriber has fallen below 80% compliance on any aspect of the code and the Code Subscriber has not demonstrated how they intend to rectify the non-compliance, the matter will be referred to the Disciplinary and Sanctions Panel.

The Code Sponsor may investigate, without the prior consent from the Code Subscriber any potential breaches of the code. The Code Sponsor may refer these matters to the Dispute Resolution Service and subsequently to the Disciplinary Panel.

If the Code Subscriber is referred to the Disciplinary and Sanctions panel they must cooperate fully.

Where required the Disciplinary and Sanctions Panel will be convened. The Panel will be led by an independent Chair and at least three other individuals meeting the following criteria:

- A construction expert
- An Insurance expert
- A consumer protection professional
- A Member of the Executive Board

Sanctions

Where a Code Subscriber has failed fail to comply with the Code the Panel will be asked to consider those breaches of the Code.

There are a range of sanctions which the Panel may, at its absolute discretion, may impose depending on the level of seriousness of the breach:

Re-Training

Where the breach is deemed to be of a minor nature by the Panel, they will require the Code Subscriber to identify those employees responsible for the breach and require them to participate in a training programme to ensure that they understand what they have to do to comply with the Code, that they take it seriously and learn lessons from their mistakes.

Any refusal to comply with this sanction participate will be treated as a serious contravention of the Code.

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Administrative Penalty

An Administrative Penalty may be recommended by the Panel for serious breaches of the Code or repeated minor breaches of the Code and ABC+ Warranty commit to implementing the Panels' recommendations.

Serious breaches

If the Code Subscriber refuses to re-train its staff the Panel can recommend that a financial penalty is imposed of not less than **£TBD-£500** and not more than **£TBD - £2000**. The actual figure determined by the Panel and dependent on the seriousness of the breach.

Other breaches of the Code determined by the Panel to be of a serious nature may also be subject to a fine in a sum to be determined by the Panel of not less than **£TBD -£1000** and not more than **£TBD - £5000**.

A fixed fee of [**TBD £500**] will also be levied by ABC+ Warranty for reasonable expenses for dealing with the administration.

Repeated minor breaches

The Panel may in its absolute discretion also impose fines of not less than **£TBD - £500** and not more than **£TBD -£1000** on the Code Subscriber where there have been three or more minor breaches of the Code by a Code Subscriber in a calendar year.

Refusal to quote for new business

This is a serious sanction. Structural Warranty Insurance is a requirement of the Council of Mortgage Lenders and any Code Subscriber who is refused insurance will find it very difficult to sell their property. But where the breach of the Code is deemed to be serious the Panel can recommend that ABC+ Warranty refuse to quote for new business with the non-compliant Code Subscriber.

For the most serious contraventions of the Code, (e.g. a refusal by the Code Subscriber to honour the payment of an award made at Adjudication), the refusal to quote will be for a period of (**TBD -5 Years**).

In all other cases, the refusal to quote will continue for a minimum period of (**TBD – 2 Years**).

The Panel may also recommend that ABC+ Warranty notify other New Build Code Sponsors of this sanction.

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Appeals against exclusion

Any Code Subscriber who has been excluded from the Code shall have 14 days from the date of suspension or exclusion to present an appeal in writing to the Disciplinary and Sanction Panel.

An Appeal against a decision of the Disciplinary and Sanctions Panel will be referred to an independent arbiter.

Ceasing to trade

Code Subscribers who enter administration, liquidation or otherwise cease to trade must advise the Code Sponsor immediately.

Where the Code Sponsor discovers that a Code Subscriber has ceased trading for any reason other than by notice, the client will be removed from the Code Register immediately.